

May 23, 2008

Tam M. Doduc, Chair
Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: Coordination with Bay Delta Conservation Planning Process

Dear Chair Doduc and Board Members:

At the March 17, 2008 workshop on your *Bay-Delta Strategic Plan*, you asked representatives from the Bay Delta Conservation Plan (BDCP) Steering Committee to make specific recommendations for coordination between the State Water Resources Control Board (State Water Board) and our planning process. We now do so.

As you know, the BDCP is being prepared to achieve two fundamental goals: restoration and protection of water supply which the federal and state projects currently convey through the Bay Delta, and conservation and management of certain aquatic species and their habitats affected by those activities. Specifically, the plan is being prepared under the provisions of federal Endangered Species Act section 10(a)(1)(B), the Natural Community Conservation Planning Act, Fish and Game Code sections 2800 *et seq.*, and/or the California Endangered Species Act, sections 2050 *et seq.*

On March 17, 2008, the California Department of Water Resources issued a "Notice of Preparation" (NOP) for the Environmental Impact Report/Statement" (EIR/S) for this plan. On April 15, 2008, the U.S. Bureau of Reclamation, National Marine Fisheries Service, and U.S. Fish and Wildlife Service issued a corresponding "Notice of Intent." The draft plan and EIR/S are expected to be published by end of 2009; and the final documents, by mid-2010. As described in the Steering Committee's "Points of Agreement" (Nov. 2007) and DWR's NOP, the plan will likely include several major elements, including capital improvements to the water supply conveyance system and a restoration program for habitats within the Delta.

We start with principles for coordination. Implementation of BDCP elements may require approvals from the State Water Board under its water quality, water rights, and related authorities. Such implementation may also require approvals from the U.S. Army Corps of Engineers and other regulatory agencies. As a result, the BDCP EIR/S should, to the extent practical, serve as the basis for all of the reviews and approvals required for BDCP implementation.

We respectfully offer the following recommendations for procedures and logistics of coordination between the State Water Board and the BDCP process.

1. We recommend that the State Water Board actively participate as a responsible agency in the scoping and preparation of the BDCP EIR/S, not just comment on draft documents when published. Indeed, the NOP (p. 11) invites each responsible agency to indicate its level of responsibility consistent with 14 CCR section 15082. While the CEQA Guidelines generally describe such potential levels of responsibility, we recommend that DWR and the State Water Board should establish a clear mutual understanding of the State Water Board's specific responsibilities and tasks in the scoping and drafting of this EIR/S. As expressed by DWR at the March 19 State Water Board workshop, DWR intends to work

with the State Water Board to make the EIR/S sufficient to cover all BDCP-related actions upon which the State Water Board will be asked to make decisions. DWR and the federal co-leads desire a similar approach with the Army Corps and each other regulatory agency which has substantial authority over some of the implementation actions contained in the BDCP.

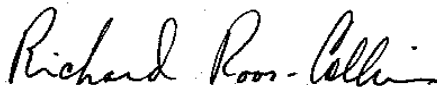
2. Over the next few weeks, DWR and the State Water Board should confer on: (i) the potential review and approval actions (e.g. changes to the *Bay Delta Water Quality Control Plan* and amendment to federal and state water rights associated with the water conveyance element of the plan) which may be needed from the State Water Board to assist in the plan implementation, (ii) the timing for such actions, (iii) the impact analysis the State Water Board will need to approve these actions, and (iv) any additional information needs that could be included in the EIR/S, including any appendix or separate document, that would assist the State Water Board in its decision-making process. DWR would then use the results of this systematic consultation to help inform its decisions on the scope and content of the EIR.

3. We understand that, under ordinary procedures in Water Code sections 1700 *et seq.*, the State Water Board would not notice a proceeding for the BDCP until a petition or request for change in a water right permit is filed, now expected to occur towards the end of 2010. However, we request the State Water Board initiate a review of the *Bay Delta Water Quality Control Plan* once the draft BDCP and supporting draft EIR/S are available for public review. The information from these documents will help the State Water Board in its water quality planning process, and that process will also help inform the BDCP EIR/S. We anticipate the State Water Board can complete the review process for the *Bay Delta Water Quality Control Plan* coincident with the final adoption of the BDCP in 2010.

4. We recommend that State Water Board staff continue to participate actively in the Steering Committee and those workgroups with substantial topical overlap with your jurisdiction. Your staff's participation to date has been very helpful.

Thank you for your consideration.

Respectfully submitted,



Richard Roos Collins
Natural Heritage Institute



Jason Peltier
Westland Water



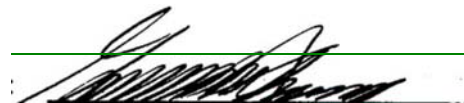
Karla Nemeth
Alameda County Flood Control
and Water Conservation District



Gregory Thomas
Natural Heritage Institute

Jason Peltier
Westland Water

Karla Nemeth
Alameda County Flood Control
and Water Conservation District



Gregory Thomas
Natural Heritage Institute